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*Canadian Conservation Commission  
Committee on Town Planning Legislation*

GOVT PUBNS

COMMISSION OF CONSERVATION

CANADA

## TOWN PLANNING

Draft Act, with respect to Planning  
and Regulating the Use and De-  
velopment of Land for Building  
Purposes in Cities, Towns, and  
Rural Municipalities



REVISED EDITION  
DECEMBER : 1915



## Commission of Conservation

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*Constituted under "The Conservation Act," 8-9 Edward VII, Chap. 27, 1909, and  
amending Acts, 9-10 Edward VII, Chap. 42, 1910, and 3-4 George V,  
Chap. 12, 1913.*

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COMMISSION OF CONSERVATION  
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*Committee on Town-Planning Legislation*

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## TABLE OF CONTENTS

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INTRODUCTION.....	3
DRAFT ACT.....	9
Part	
I TITLE, INTERPRETATION AND APPOINTMENTS (Sec. 1 to 4).....	9
II NEW STREETS AND SUB-DIVISIONS—POWERS AND DUTIES OF LOCAL BOARD TO APPROVE ALL NEW DEVELOPMENT (Sec. 5 to 8).....	11
III PREPARATION AND APPROVAL OF TOWN PLANNING BY-LAWS OR SCHEME (Sec. 9 to 21).....	13
IV PURCHASE OR EXPROPRIATION OF LAND (Sec. 22 to 24)	19
V POWERS IN CASE OF DEFAULT AND TO INSPECT PROPERTY (Sec. 25 and 26) .....	20
VI EXPENSES OF DEPARTMENT, ETC.—(Sec. 27 and 29)	22
Schedule	
A MATTERS TO BE DEALT WITH IN TOWN PLANNING BY-LAWS AND SCHEMES.....	22
B MATTERS WHICH MAY FORM THE SUBJECT OF PROVISIONS OF TOWN PLANNING SCHEMES.....	24
C MATTERS TO BE DEALT WITH IN PROCEDURE REGULATIONS.....	25
D REGULATIONS REGARDING COMPULSORY PURCHASE..	27

## INTRODUCTION

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The following revised draft of an Act relating to the planning and regulation of the use and development of land in cities, towns and municipalities is submitted by the Town Planning Branch of the Commission of Conservation for the consideration of the Legislatures of those provinces of Canada that have not already passed Town Planning Acts.

<b>Urgency of Town Planning Legislation</b>	There is urgent need for local authorities to have the powers of such an Act conferred upon them at the present time. Preparation should now be made to properly regulate the building development that is likely to take place at the close of the war. It is important that this preparation should be made forthwith, not only because the right time to plan and regulate new development is during such a period of slackness in regard to building operations as is now being experienced, but also, because, by means of planning and regulation, a great deal can be done to reduce the cost of local improvements and secure greater civic and industrial efficiency. The war is resulting in loss of life and capital, and it is desirable to take steps to conserve both, so far as this can be done, by the exercise of better and more scientific methods of development than have hitherto prevailed. The object of the Act is, primarily, to secure that new growth will be properly regulated, that the evils which have resulted from haphazard growth in the past will be avoided in future, that such public monies as are expended on local improvements will be spent to the best advantage, and that the conditions of environment in urban communities will not continue to cause unnecessary loss of life and impairment of health. The need for action being taken to conserve the lives and health of Canadian citizens, and the physical, industrial and natural resources of our cities and towns, and the desirability of promoting better living conditions, greater industrial efficiency and more economical methods of developing land, are the chief motives underlying the action of this Commission in submitting this draft for the consideration of the provinces. There would be no excuse for bringing the matter forward at such a time as this were it possible to keep it in abeyance until after the war without serious public loss. In order that such loss may be avoided, the attention of the Provincial Governments is earnestly
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directed to the importance of immediate steps being taken to pass the required legislation.

**Attitude of Public Opinion**      The Town Planning Branch of the Commission of Conservation has been actively engaged during the past fifteen months in studying Canadian conditions and the form and practical application of existing town planning legislation. By means of holding meetings and representative conferences in many cities and towns throughout the Dominion, it has also endeavoured to gauge the attitude of the general body of citizens on questions relating to land development, housing and town planning. As a result, it has been ascertained that there is a widespread public demand to have enlarged powers given to local authorities to enable them to prepare town planning schemes in the immediate future. In asking that these powers be given, the Commission is representing a large body of public opinion which it has had the opportunity of consulting on the subject.

**Preparation of Revised Draft**      In its main features, the revised draft is modelled on the draft prepared in the early part of 1914, by a special committee, appointed by the Commission, of which Col. Jeffrey H. Burland was chairman. Experience in the working of town planning legislation in Canada and Great Britain in recent years has, however, suggested the desirability of certain changes being made in the original draft. These changes, for the most part, follow the lines of the revised Nova Scotia Act, passed into law in April of this year, and taking the place of the earlier Act of 1912. This later Nova Scotia Act is a great improvement on any previous town planning legislation. It contains the provisions for compulsorily creating town planning boards in each district—whether city, town or rural municipality—and for the preparation of town planning by-laws as a means of securing the application of certain general principles of land development to the whole of the province. The optional preparation of the more elaborate town planning schemes is not interfered with by the provisions relating to town planning by-laws, but the latter secure an essential uniformity of practice in regard to certain matters that affect urban and rural communities in common, and enable small municipalities with comparatively meagre resources to get the benefit of planning without the greater cost or more elaborate procedure required to prepare complete schemes. Sufficient time has not passed to enable any judgment to be formed regarding the working of the Nova Scotia Act but the indications are that it will work smoothly and effectively.

**Act Suitable for Small Municipalities** The precedents of the Nova Scotia Act of 1915 and of the earlier New Brunswick, Alberta and British Acts have all been considered in preparing the draft. In so far as it differs from these Acts, the object sought has been for the purpose of securing a wider scope for the provisions, simplifying the procedure involved in putting the Act in force, and adapting the powers to the variety of conditions which prevail in Canada. The revised model now recommended is more lengthy than the original draft, but the real effect of this greater length is to reduce labour by simplifying procedure in connection with its practical operation. Some of the additions made, however, are necessary to make an Act suitable for use in the smaller and sparsely populated municipal districts. It is in these districts that the greatest advantage of planning and regulating the use of land in anticipation of possible future development can be obtained, but the authorities which control such districts cannot be expected to undertake the work and expense of preparing elaborate schemes. Moreover, the effective control of bad development requires that rural areas shall be regulated at the same time as city areas, and that there should be co-operation between both classes of authorities having jurisdiction over such areas.

**Co-operation** The proposed Act also requires co-operation between all local authorities and owners of land and experience shows that the latter benefit as a whole from the application of such a measure, while great public gain is secured. Adjacent authorities are required to co-operate with one another, an important provision, the absence of which has been the cause of many mistakes and much waste of public money in the past.

**Divisions of Draft Act** It will be seen that the Act is divided into six parts as follows:—

PART	SECTIONS
I Title, Interpretation and Appointments . . . . .	1 to 4
II New Streets and Sub-divisions:—Powers and Duties of Local Board to Approve all New Development. . . . .	5 to 8
III Preparation and Approval of Town Planning By-laws or Schemes . . . . .	9 to 21
IV Purchase or Expropriation of Land . . . . .	22 to 24
V Powers in Case of Default and to Inspect Property . . . . .	25 to 26
VI Expenses of Department, etc . . . . .	27 to 29



Parts I and VI deal with the administrative machinery required to be set up to operate the proposed Act.

Part II gives powers to local authorities, through the Local Boards, to more effectively control all new developments and sub-divisions. These powers will be especially useful, both during the period prior to the time when the preparation of a scheme or a set of by-laws is begun, and during the time when the actual work of preparation is proceeding. The effect of this part will be to secure that the Local Board will be automatically brought in touch with all new development, thus ensuring that it will have direct knowledge at all stages, of anything that is being done in connection with the laying-out of land in its area.

Parts III, IV and V largely follow the lines of the British Act of 1909 but with several useful additions and amendments.

**Provisions** Except with regard to the two mandatory require-  
**Mainly** ments, namely, (1) that a local town planning board  
**Permissive** be appointed by each local authority, and (2), that  
some form of town planning by-laws be prepared by  
such board within a period of three years, the Act is  
permissive in character. It considerably extends the powers of local  
authorities in regard to matters which are generally acknowledged to  
need control, but the giving of these extended powers has to be  
accompanied by the above two compulsory requirements in order to  
make the Act effective. Taken as a whole, the Act adds to the  
discretionary power of local authorities, but adequately protects  
legitimate interests in the ownership of land.

**Provision of** It will be noted that the town planning board, although  
**Funds to** possessing certain definite powers and acting inde-  
**Prepare and** pendently of the local authority in preparing any by-  
**Carry Out** laws or scheme, is in effect a committee of the local  
**Schemes** authority. It is essential that there should be a close  
connection between the two bodies, in order to secure  
that the final voice in regard to expenditure on the  
operation of by-laws or schemes will rest with the elected authority.  
Under the proposed Act the local authority has to supply the Local  
Board with the necessary funds up to a specified percentage of the  
assessed value to enable, it to prepare a set of town planning by-laws  
or a town planning scheme, but no funds may be expended in  
operating the by-laws or the scheme without the approval of the  
local authority (Section 14.)



**Regulations and Expert Advice** If and when the Act is passed two sets of regulations will have to be prepared and issued to enable Local Boards to carry out its provisions.

These are:—

- (1) Section 5. (2) Regulations to be prepared by Local Board regarding submission of plans of new streets, etc.;
- (2) Section 15. Procedure regulations to be prepared by Minister for (a) schemes and (b) by-laws.

Model forms of these regulations have been prepared by the Town Planning Branch of the Commission of Conservation and will be submitted to provincial and local authorities after the passing of any provincial Act. The branch will also be prepared to give free advice with regard to the drawing up of model sets of by-laws or schemes, or the preparation of plans, so as to reduce the labour and expense of local authorities to the minimum.

**Terms Used in Draft Act** Certain terms used in the Act may have to be varied to suit the conditions of each province. For instance, there is unfortunately no "Department of Municipal Affairs" in most of the provinces, and therefore, no "Minister of Municipal Affairs." In Nova Scotia the department made responsible for operating the Act in the province is that of "Public Works and Mines." The important thing, however, is that some department be made responsible, but which department it should be is a matter for each province to decide.

**Conclusion** The wide consensus of opinion in favour of some form of legislation to enable the growth of cities and towns to be properly planned and regulated, makes it unnecessary to enter into any description of the general advantages of such legislation. With regard to the particular form herewith submitted no effort has been spared in connection with its preparation to take advantage of the lessons derived from the practical operation of other town planning Acts; the best advice has been sought with regard to the suitability of its provisions to Canadian conditions; and every consideration has been given to the need for making the Act effective without limiting the proper powers of local authorities or causing

injury to the legitimate rights of owners of land. The draft is merely put forward by way of suggestion, and will, of course, require to be carefully revised by the legal adviser of each Provincial Legislature before being introduced.

THOMAS ADAMS

TOWN PLANNING BRANCH

Commission of Conservation

Ottawa, December, 1915



# BILL

No.

## AN ACT WITH RESPECT TO PLANNING AND REGULATING THE USE AND DEVELOP- MENT OF LAND FOR BUILDING PURPOSES

(Assented to 191 .)

His Majesty, by and with the consent of the Legislative  
Assembly of , enacts as follows:

### PART I—TITLE, INTERPRETATION, AND APPOINTMENTS

#### SHORT TITLE

Short Title. 1. This Act may be cited as The Town Planning Act.

#### INTERPRETATION

Interpre- 2. In this Act, and in any rule or regulation made  
tation. thereunder, unless the context otherwise requires:—

Department. 1. “Department” means the Department of Munici-  
pal Affairs;

Minister. 2. “Minister” means the Minister of Municipal Affairs.

Comptroller. 3. “Comptroller” means a town planning comptroller  
appointed by the minister.

Local 4. “Local Authority” means the governing body of a  
Authority. city, town or rural municipality.

Local Board. 5. “Local Board” means a town planning board  
appointed by a local authority, or such board or other  
authority as may be designated or appointed by the depart-  
ment as the authority to be responsible for carrying out a  
town planning scheme.

- Surveyor. 6. "Surveyor" means a town planning surveyor, appointed by the local board.
- Land or Lands. 7. "Land or Lands" includes lands, tenements and hereditaments and any interest therein, and also houses, buildings and other works and structures.
- Main Thoroughfare. 8. "Main thoroughfare" means a principal highway which (1) connects or is likely to connect two populous districts or parts of one district or municipality, or which forms the principal means of approach to a city or town, or (2) any main arterial thoroughfare which in the opinion of the Board of Highway Commissioners of the province is necessary or desirable for securing adequate means of communication by road between different parts of the province.

#### APPOINTMENTS

- Comptroller. 3. The Minister shall appoint a comptroller, who shall be a competent engineer or architect, and shall be the executive officer responsible to the department.
- Local Board to be appointed. 4. Every local authority shall appoint a Local Board, consisting of the mayor or reeve, and two other members, of the council (ex-officio), and not less than two rate-payers to be appointed by the local authority for three years.
- Where failure to appoint. 2. Where a local authority fails to appoint a Local Board within one year after the passing of this Act the Department may make the appointment, and a Board so appointed shall have the same powers as if appointed by the local authority.
- Powers of Board. 3. Every Local Board shall be a body corporate and shall have power to acquire, receive and hold, sell, lease and dispose of lands and any interest therein.
- Board to appoint Surveyor. 4. The Local Board shall appoint the engineering officer of the local authority, or other qualified person as its town-planning surveyor.
- Duties of Surveyor. 5. The surveyor shall be the executive officer of the Board and, with the Board, shall be responsible for carrying out the provisions of this Act and the regulations and by-laws issued thereunder.
- Removal of Surveyor. 6. The surveyor shall not be removed from office and, if he is paid a salary or other remuneration, his salary or other remuneration shall not be reduced except, in either case, with the unanimous approval of the Local Board.



## PART II—NEW STREETS AND SUB-DIVISIONS:

POWERS AND DUTIES OF LOCAL BOARD TO APPROVE ALL  
NEW DEVELOPMENT

Laying out  
of Streets,  
etc., to be  
approved by  
Board.

5. Notwithstanding any statute, by-law, rule or regulation in operation in any area, it shall not be lawful to reserve, lay out, grant or convey any street, road or public right of way, nor to sub-divide or sell as lots, any property, tract of land or area, unless in accordance with plans, sections and particulars submitted to and approved by the Local Board, or by the local authority pending the appointment of the Local Board.

Board to  
make Regu-  
lations re  
Procedure.

2. The Local Board shall make regulations with regard to the procedure to be adopted with respect to applications for approval of such plans, sections and particulars, including applications which have to be submitted for the joint approval of more than one Local Board, and such regulations, when made, shall not come into effect until and unless approved by the Department.

Provisions  
as to  
Application  
and Plans

3. Applications made under this section shall be made in writing, and the regulations shall (a) fix the time within which plans, sections and particulars may be approved or rejected; (b) deal with any reasonable requirements of the Local Board as regards the submission of plans, sections and particulars showing the proposed method of laying out or sub-dividing land adjoining that included in the plan accompanying an application; and (c) indicate what details are required to show the proposed line of frontage of buildings proposed to be erected, and the proposed widths, formation and method of construction of streets, roads and public rights-of-way.

Board may  
Regulate  
Width of  
New Street.

6. When application is made to the Local Board to approve the reservation or laying out of a street, road or public right of way, or a sub-division, the Board may require that any new street needed for the purposes of a main thoroughfare, shall be formed of a width of 100 feet.

Powers to  
Purchase  
From and  
Compensate  
Abutting  
Owners.

2. If the Board require a street to be of a greater width than 100 feet, then, in the absence of the consent of the abutting owners to give the land for the purpose of such greater width, the Board shall purchase from the owners

and they shall sell to it the additional land required, and the Board shall also make compensation to such owners for any loss or damage sustained by them by reason of the Board requiring the street to be of such greater width.

Powers of  
Board re  
Width of  
Streets  
Pending  
Approval.

3. Pending the preparation and approval of town planning by-laws or a town planning scheme for any area, the Board may, notwithstanding the provisions of any by-laws in force in the municipality as to the width of streets, enter into an agreement with an owner of land to permit any new streets proposed to be laid out on such land and not forming main thoroughfares or continuations of main thoroughfares, to be of a less width than sixty-six feet, where the owner gives up to public use land required for widening a main thoroughfare to a greater width than 100 feet.

Minimum  
Width of  
Street.

4. No street shall be of less width than forty feet, unless approved by the Department, and conforming to the conditions set out in schedule "A" to this Act, as regards variations in the width of streets.

Adjustment  
and  
Alteration of  
Boundaries  
of Lands.

7. A Local Board may, for the purpose of securing the proper laying out or development of any land within its area, or in connection with any application under the preceding section, require that (a) provision shall be made for adjusting and altering the boundaries of any such land, or any land adjacent or near thereto, and for effecting such exchanges of land or cancellation of sub-division as may be necessary or convenient for such purposes, and (b) when such land or any part thereof has been sub-divided and sold as lots but not generally built upon, the Board may, with the approval of the Minister, and subject to the consent of twenty-five per cent. of the owners, require the preparation of a new plan for such sub-division, and the alteration of the position, width or direction of any streets, roads or right-of-way shown on the original plan of such sub-division.

Proceedings  
to be by  
Arbitration  
Failing  
Agreement.

2. The provision to be so made and the terms and conditions annexed thereto, shall, failing agreement between the Board and the respective persons interested in such lands, be determined, on the application of the Board or any such person, by an arbitrator appointed by the department, unless the parties agree on some other method of determination; and the Board may pay to any such person such sums as may be agreed upon, or may in default of agreement be determined by arbitration as aforesaid.



Award not to  
be Condition  
for Money  
Payment  
without  
Consent.

3. The payment of money by any such person shall not be made a term or condition of an award made under this section otherwise than with his consent.

Certain  
Applications  
to be  
Approved  
by Local  
Board  
of Adjoining  
Area.

8. When the application relates to a survey and subdivision into lots with a view to registration of the plan of a tract of land within one mile of the boundary lines of a city, town or rural municipality, the Local Board shall submit a copy of such application, including plans, sections and particulars, to the Local Board of the adjoining area for approval of the lines, widths and direction of such roads as form or are likely to form the principal means of communication between the adjacent areas.

### PART III—PREPARATION AND APPROVAL OF TOWN-PLANNING BY-LAWS AND SCHEMES

Town  
Planning  
By-laws to  
be Prepared  
by each  
Local Board.

9. Except as hereinafter provided, each Local Board shall within three years after the passing of this Act prepare a set of town planning by-laws for adoption in its area, and provision shall be made therein for dealing with the matters set out in schedule "A" to this Act and such other matters as may be necessary for carrying the by-laws into effect, including the suspension of any by-law, rule, regulation or provision which is already in operation in the area.

Department  
may Prepare  
Model By-  
laws for  
Adoption

2. The Department may prepare a set of model by-laws (or separate sets of model by-laws adapted for areas of special character) for the purpose of adoption by a Local Board.

3. Where a town planning scheme has been approved by the Department, the Local Board shall not be required to prepare or adopt a set of town planning by-laws under this section in respect of the portion of its area included in the proposed scheme.

Town Plan-  
ning by-laws  
when  
Approved to  
be Included  
in subse-  
quent Town  
Planning  
Scheme.

4. If, at any period subsequent to the approval of a set of town planning by-laws, a Local Board prepares or adopts a town planning scheme for any part of a municipal area provision shall be made therein for incorporating such by-laws as part of the scheme, except in so far as they may be altered or revoked in accordance with the requirements of this Act.

General  
object of  
Town  
Planning  
Scheme.

10. A town planning scheme may be prepared in accordance with the provisions of this Act with the general object of securing proper sanitary and hygienic conditions, amenity, and convenience, including suitable provision for traffic, in connection with the laying out of streets and use of the lands included therein, and of any neighbouring lands, for building or other purposes.

Department  
may  
authorize  
Preparation  
or Adoption  
by Local  
Board of  
General  
Scheme.

2. The Department may authorize a Local Board to prepare such a scheme with reference to any land within or in the neighbourhood of its area, if the Local Board satisfy the department that there is a *prima facie* case for making such a scheme, or may authorize a Local Board to adopt, with or without modifications, any such scheme proposed by all or any of the owners of land with respect to which the Local Board might itself have been authorized to prepare a scheme.

Town  
Planning  
By-laws or  
Scheme  
Ineffective  
until ap-  
proved by  
Department

11. A town planning by-law or scheme prepared or adopted by a Local Board shall not have effect, unless it is approved by order of the Department, which may refuse approval except with such modifications and upon such conditions as it may see fit to impose.

To take  
Effect when  
Approved.

2. A town planning by-law or scheme shall take effect when approved of by the Department.

May be  
Varied or  
Revoked by  
Department.

3. A town planning by-law or scheme may be varied or revoked by order of the Department, on the application of the Local Board or of any interested person, if the Department is satisfied that under the special circumstances of the case such by-law or scheme should be altered or revoked; but no scheme shall be revoked except by a subsequent scheme made and approved in accordance with this Act.

Local Board  
to be  
Responsible  
for Carrying  
out Scheme.

12. The authority to be responsible for the carrying out of town planning by-laws or a town planning scheme shall be the Local Board applying for approval of the scheme.

Respon-  
sibility where  
Land in  
Area of  
More than  
One Board.

Provided that where land included in a town planning scheme is in the area of more than one Local Board, the responsible authority may be such Local Board or other authority as may be designated by the Department.

Contents of  
Town  
Planning  
Schemes.

13. Every town planning scheme shall contain provisions for defining, as may be prescribed by the rules of the department:—(a) the area to which the scheme is to apply, and (b) the Local Board or other authority which is



to be responsible for enforcing the observance of the scheme and for the execution of any works which under the scheme or the Act are to be executed by the Local Board or other authority.

2. Provisions shall also be inserted in every town planning scheme for carrying out the general object of schemes, for suspending as far as may be necessary for the proper execution of the scheme any statutes, by-laws, rules, regulations or other provisions, made by a local authority, which are in operation in the area included in a scheme and in particular for dealing with the matters set out in schedules "A" and "B" attached to this Act.

Powers of  
Assessment  
and  
Borrowing  
to be  
Subject to  
Consent of  
Local  
Authority.

14. Special provision shall be inserted in every set of town planning by-laws and in every town planning scheme prescribing the manner in which the funds necessary for carrying the by-laws or scheme into effect are to be procured.

Provided that no assessment upon any city, town or rural municipality shall be authorized by such provisions without the consent of the local authority in control of the area affected being first had and obtained; nor shall any power to borrow money either by the issue of bonds or otherwise be conferred upon a Local Board by any by-laws or scheme, except with the approval of the local authority in control of the area affected.

Local  
Authority  
to Provide  
Expenses to  
be Incurred  
in Preparing  
By-laws and  
Schemes,  
and Amount  
to be  
Provided by  
Assessment.

2. The expenses to be incurred by the Local Board in preparing or adopting by-laws or a scheme shall be provided by the local authority, and such amount may be borrowed by the local authority. The amount so borrowed with the interest shall be included in the assessment and rating for the next municipal year, and shall not exceed, for the purpose of preparing and adopting by-laws, one-fiftieth, and for the purpose of preparing or adopting a town planning scheme, one twentieth, of one per cent of the assessed value of the city, town or other municipality.

Department  
to make  
Rules  
regarding  
Procedure.

15. The Department may make rules for regulating the procedure to be adopted with respect to applications for authority to prepare or adopt town planning schemes, the preparation of draft town planning by-laws or schemes, obtaining the approval of the department thereto, and any enquiries, reports, notices, maps, estimates, or other matter required in connection with the preparation or adoption or the approval of the by-laws or a scheme or preliminary thereto, or in relation to the carrying out of the by-laws or scheme,

or enforcing the observance of the provisions thereof, and for such other purposes as may be found necessary.

2. Provision shall be made therein for securing:—

- (a) Co-operation on the part of the Local Board with other Local Boards and with the owners and other persons interested in the land proposed to be affected by the by-laws or included in the scheme;
- (b) For dealing with the other matters mentioned in Schedule “C” attached to this Act.

Powers of  
Local Board  
under By-  
laws or  
Scheme.

16. The Local Board may at any time, after giving such notice as may be provided in a set of town planning by-laws or a town planning scheme, and in accordance with the provisions of the by-laws or scheme:—

- (a) Remove, pull down or alter any building or other work in the area affected by the by-laws or included in the scheme which is such as to contravene their provisions or in the erection or carrying out of which any of their provisions has not been complied with; or
- (b) Execute work which it is the duty of any person to execute under by-laws or a scheme, where it appears to the Local Board that delay in the execution of the work would prejudice the efficient operation of the by-laws or the scheme.

Recovery of  
Expenses  
from  
Defaulting  
Parties.

2. Any expenses incurred by the Local Board under this section may be recovered from the persons in default in such manner and subject to such conditions as may be provided by the by-laws or the scheme.

Department  
to Decide  
Questions  
as to Con-  
travention  
of By-laws  
or Schemes.

3. If a question arises whether any building or work contravenes a by-law or a scheme, or whether any provision of a by-law or scheme is not complied with in the erection or carrying out of a building or work, such question shall be referred to the Department, and unless the parties agree upon some other manner for determining the question, it shall be determined by the Department and the decision of the Department shall be final, conclusive and binding on all persons.

Local Board  
may Permit  
Performance  
of Certain  
Works  
Pending  
Authority  
from  
Department

17. The Local Board may enter into an agreement with the owners of land to permit the formation or construction of streets or roads or the determination of a building line on their land, in accordance with the provisions of any draft by-laws or scheme, between the time when application is made to the Department for approval of the by-laws or



authority to prepare the scheme and the time when such approval or such authority is given, subject to such agreement being approved by the Department; and may enter into an agreement with any person or corporation to do work that the Board has itself power to perform and, so far as may be necessary for the purpose of doing such work, such person or corporation shall have all the powers conferred upon a Local Board by this Act.

Claims for  
Compensa-  
tion for  
Injury to  
Property  
Through  
Making of  
By-laws or  
Scheme.

18. Any person whose property is injuriously affected by the making of town planning by-laws or a town planning scheme, shall, if he makes a claim for the purpose within the time (if any) limited by the by-laws or scheme (not being less than three months after the date when notice of the approval of the by-laws or scheme is published in the manner prescribed by regulations made by the Department) be entitled to obtain compensation in respect thereof from the Local Board.

Claims for  
Compensa-  
tion for  
Injury to  
Property  
by execution  
of By-laws  
or Scheme.

2. Any person whose property is injuriously affected by the execution of works carried out under the provisions of by-laws or a scheme, in respect of any matter or thing which has not been the subject of compensation in connection with the making of the by-laws or the scheme, shall, if he makes a claim within twelve months after the completion of the work, or any section of the work affecting his property, as the case may be, be entitled to obtain compensation in respect thereof from the Local Board.

3. A person shall not be entitled to obtain compensation under this section on account of any building erected on, or contract made or other thing done with respect to land affected by by-laws or a scheme after the date when the Local Board makes application for approval of such by-laws, or for authority to prepare the scheme, as the case may be, or after such other time as the Department may fix for the purpose.

Exception in  
Certain  
Cases.

4. The foregoing provision shall not apply to prevent compensation for work done before the date of approval of the by-laws or scheme, for the purpose of finishing a building begun or of carrying out a contract entered into before the application was made.

Local Board  
may Re-  
cover Half  
of Increase  
in Value  
through  
Making  
By-laws or  
Scheme.

19. Where, by the making of town planning by-laws or a town planning scheme, property is increased in value, the Local Board shall, if it makes a claim for the purpose within the time, if any, limited by the by-laws or scheme, such time not being less than three months after the date when notice of the approval of the by-laws or scheme is first published in the manner prescribed by the regulations, be entitled to recover from any person whose property is so increased in value one-half of the amount of the increase.

Local Board  
may Re-  
cover Half  
of Increase  
in value  
through  
Execution  
of Works.

2. Where by the execution of works under by-laws or a scheme property is increased in value, the Local Board may recover from the owner one-half of the increase in respect of any matter or thing for which it has not recovered any amount in connection with the making of the scheme, provided that it makes a claim within twelve months after the completion of the work or any portion of the work affecting the property, as the case may be.

Proceedings  
before Single  
Arbiter  
Unless  
otherwise  
Agreed.

20. Any question as to whether property is injuriously affected or increased in value, and as to the amount and manner of payment (whether by instalments or otherwise) of the sum which is to be paid as compensation, or which the Local Board is entitled to recover, shall be determined by a single arbitrator appointed by the Department, unless the parties agree on some other method of determination.

Compensa-  
tion re-  
coverable  
Summarily.

2. Any amount due as compensation from a Local Board to a person aggrieved, or to a Local Board from a person whose property is increased in value, may be recovered summarily as a civil debt.

Compensa-  
tion where  
By-law  
Scheme  
Revoked.

3. When a by-law or a scheme is altered or revoked by an order of the Department under this Act, any person who has incurred expenditure for the purpose of complying with the by-law or scheme shall be entitled to compensation from the Local Board, in accordance with this section, in so far as any such expenditure is rendered abortive by reason of the alteration or revocation of the by-law or scheme.

No Compensa-  
tion if  
Provisions  
otherwise  
Enforceable.

21. Where property is alleged to be injuriously affected by reason of provisions contained in town planning by-laws or a town planning scheme, no compensation shall be paid in respect thereof, if or so far as the provisions are such as would have been enforceable if they had been contained in by-laws made by the local authority under any other Act.



Certain  
Provisions  
not Deemed  
Injurious.

2. Property shall not be deemed to be injuriously affected by reason of the making of any provisions inserted in by-laws or a scheme, which, with a view to securing the amenity of the area affected by the by-laws or the scheme, or any part thereof, or proper hygienic conditions in connection with the buildings to be erected thereon, prescribe the space about buildings, or the percentage of any lot which may be covered with buildings, or limit the number of buildings to be erected, or prescribe the height, character or use of buildings, and which the Department, having regard to the nature and situation of the land affected by the by-laws or provisions, consider reasonable for the purpose of amenity and proper hygienic conditions.

Compensa-  
tion Re-  
coverable  
under one  
Enactment  
only.

3. Where a person is entitled to compensation under this Act in respect to any matter of thing, and he would be entitled to compensation in respect of the same matter or thing under any other enactment, he shall not be entitled to compensation in respect of that matter or thing both under this Act and under that other enactment, and shall not be entitled to any greater compensation under this Act than he would be under the other enactment.

#### PART IV—PURCHASE OR EXPROPRIATION OF LAND

Manner of  
Acquisition  
by Local  
Board.

22. The Local Board is hereby authorized to acquire property by gift, purchase or expropriation.

Powers of  
Expropria-  
tion of Local  
Board under  
Town Plan-  
ning Scheme

23. The Local Board may, for the purpose of a town planning scheme, purchase or acquire any land comprised in such scheme by agreement or compulsorily, including any land within 200 feet of the boundary lines or proposed boundary lines of any street laid out, widened or improved by the Board, or any public park, playground or other open space acquired by the Board under a scheme, and in the absence of agreement the price to be paid shall be determined by arbitration, under the rules set out in schedule "D" to this Act.

Matters  
to be  
Considered  
by Arbitra-  
tors.

2. In determining the amount of compensation to be paid for land expropriated for any purpose of a scheme, the arbitrators shall take into consideration the relative benefit and injury occasioned to any remaining portion of the owner's land by carrying the scheme or any portion thereof

into effect, adding thereto, in the case of injury, an estimate for the cost of fencing such portion, if fencing be rendered necessary.

Limitation  
in Price to  
be Paid.

3. The price to be paid for land so purchased or expropriated shall in no case exceed the assessed value thereof, plus 25 per cent of such value, at the date when the application for authority to prepare the scheme was made, and no additional allowance shall be made because of the purchase being compulsory.

Department  
may  
Authorize  
Local Board  
to Sell  
Lands  
Acquired.

24. A Local Board may be authorized by the Department to sell land purchased or expropriated under a town planning scheme if it can be shown that the purpose for which the land was acquired has been attained or that the land is no longer necessary for any purpose of the scheme.

Disposition  
of Monies  
Realized.

2. The monies realized from such sale shall be applied in the first instance, to the payment of any debt incurred in connection with the expropriation, and for that purpose may be used for payment of the instalments of any loan contracted for such debt, or may be paid into a sinking fund established in connection therewith, or into the general sinking fund, as may be most appropriate; and they may thereafter be applied to such purposes in connection with the scheme as may be approved by the Department.

## PART V—POWERS IN CASE OF DEFAULT AND TO INSPECT PROPERTY

Department  
may Order  
Local  
Boards to  
Prepare and  
Submit  
By-laws,  
Schemes,  
etc.

25. If the Department is satisfied, on any representation, and after inquiry that a Local Board:—

- (a) Has failed to take the requisite steps for having a satisfactory set of town planning by-laws or a town planning scheme prepared and approved in a case where a set of by-laws or a scheme ought to be made; or
- (b) Has failed to adopt a scheme proposed by owners of land in a case where a scheme ought to be adopted; or
- (c) Has failed to prepare a set of by-laws dealing with any part of its area not included in a scheme; or
- (d) Has unreasonably refused to consent to modifications or conditions imposed by the Department, the Department may, as the case requires, order the Local Board to prepare and submit for its approval



such a set of by-laws or scheme, or to adopt the scheme, or to consent to the modifications or conditions so inserted.

Department  
may Ap-  
prove  
Scheme not  
Adopted by  
Local Board

2. Where the representation is that a Local Board has failed to adopt a scheme, the Department, in lieu of making such an order as aforesaid, may approve the proposed scheme, subject to such modifications and conditions, if any, as it may deem fit, and thereupon the scheme shall have effect as if it had been adopted by the Local Board and approved by the Department.

Department  
may Order  
Local Board  
to Enforce  
Observance  
of By-laws,  
Schemes,  
etc.

3. If the Department is satisfied on any representation, after holding a public local enquiry, that a Local Board has failed to enforce effectively the observance of a set of by-laws or a scheme which has been confirmed, or any provisions thereof, or to execute any works, which, under the by-laws or scheme or this Act, the Board is required to execute, the Department may order the Board to do all things necessary for enforcing the observance of the by-laws or scheme or any provisions thereof, effectively, or for executing any works which under the by-laws or scheme or this Act, the Board required to execute.

Mandamus

4. Any order under this section may be enforced as by mandamus.

Powers of  
Local Board  
to Enter  
upon and  
Inspect  
Property.

26. The Local Board, or any of its officers or servants, on production of the written authority of the Board, shall be admitted into or upon any property within its area for the purposes of any inspection required to be undertaken in connection with the work of preparing by-laws or a scheme, or carrying out the provisions of such by-laws or scheme, and if admission is refused any magistrate, on complaint thereof on oath by an officer of the Board, (made after reasonable notice in writing of intention to make the same has been given to the person having custody of the property) may by order under his hand require such person to admit the Board and its officers or servants into or upon such property during such reasonable hours as he shall think fit, and if no person having such custody can be found the justice shall, on oath made before him of that fact, by order under his hand authorize the Board and its officers or servants to enter such property during the hours aforesaid.

Magistrate's  
Order Valid  
until  
Performance

2. Any such order made by a magistrate shall continue in force until the purposes for which such admittance was required shall have been fulfilled or executed.

## PART VI—EXPENSES OF DEPARTMENT, ETC.

Expenses of  
Department

27. Expenses incurred by the Department under this Act shall be paid out of any funds appropriated for the purpose by the Legislature of the Province.

Annual  
Report by  
Minister.

28. The Minister shall make an annual report to the Legislature, containing the decisions, recommendations and other transactions of his Department under this Act, and shall prepare and keep for inspection a map on which shall be shown the main thoroughfares of the province so far as the position and line of such thoroughfares have been determined by the Board of Highway Commissioners of the province.

29. This Act shall come into force on the

## SCHEDULE "A"

(Sections 6, 9 and 13)

MATTERS TO BE DEALT WITH IN TOWN PLANNING BY-LAWS  
OR SCHEMESFixing  
Building  
Lines on  
Existing  
Roads.

1. Fixing building lines on all existing streets and roads to secure, as far as practicable, having regard to the physical features of the site and the depths of the existing subdivisions, that the distance between the buildings to be erected or buildings likely to be reconstructed on opposite sides of a street or road shall not be less than 80 feet and may be 120 feet according to the prospective traffic requirements of such road.

Fixing  
Building  
Lines on  
New Roads.

2. Fixing building lines on all new streets and roads to be made in future so that no building shall be nearer to the centre of any road than 60 feet in the case of main thoroughfares or 40 feet in the case of all other roads.

Reservation  
of Land for  
Main  
Thorough-  
fares.

3. Reserving land for new main thoroughfares which it is desired to keep free from buildings, by agreement with the owner or owners of such land and by co-operation between Local Boards with regard to the lines, widths and direction of thoroughfares which connect adjacent parts of their respective areas.

Limiting  
number of  
Dwelling  
Houses.

4. Limiting the number of separate family dwelling houses to the acre and providing for adequate light and air to the windows of each house, so far as reasonable for the



purpose of securing the amenity of any area, and proper hygienic conditions in connection with the buildings erected thereon.

Limiting  
Percentage  
of Area of  
Lot to be  
Built Upon.

5. Prescribing zones within which to regulate the density of building for the purpose of securing amenity or proper hygienic conditions, and fixing the percentage of the area of the lot on which new buildings may be erected or old buildings reconstructed, so that not more than 75 per cent of any lot situate within the central or commercial zone of a city or town and not more than 50 per cent of any lot situate in any outer zones, shall be covered with buildings, except in regard to corner lots fronting on two intersecting streets, in which case the percentage may be increased to 90 and 60 per cent in the central and outer zones respectively.

Prescribing  
Areas and  
Regulating  
the Char-  
acter of and  
Classifying  
Buildings  
Thereon.

6. Prescribing certain areas which are likely to be used for building purposes, for use for dwelling houses, apartment houses, factories, warehouses, shops or stores, or other purposes and the height or general character of buildings to be erected or reconstructed; so far as reasonable for the purpose of securing the amenity of such areas, and proper hygienic conditions in connection with such buildings.

Prohibiting  
Noxious  
Trades, Un-  
sanitary Ar-  
rangements,  
etc.

7. Prohibiting the carrying on of any noxious trades or manufactures or the erection and use of any buildings with inadequate sanitary arrangements or the erection and use of buildings, bill boards or structures for advertising purposes which are such as to be injurious to the amenity or natural beauty of any area.

Regulating  
the Width  
of Streets.

8. Providing for the following or other variations in the width of streets:—

- (a) New Main thoroughfares to be of a width of not less than 100 feet.
- (b) New secondary streets likely to be required for through traffic to be of a width of not less than 40 feet.
- (c) Streets not exceeding 350 feet in length and in the opinion of the Local Board, not required for through traffic, to be of a width of not less than 24 feet with a carriage way not less than 16 feet and connected at both ends with a street not less than 40 feet wide.
- (d) Streets not exceeding 700 feet in length, and in the opinion of the Local Board, not required for

through traffic, to be of a width of not less than 28 feet, with a carriage way of not less than 18 feet, and connecting at both ends with streets not less than 40 feet wide.

- (e) Streets not exceeding 1,500 feet in length, and, in the opinion of the Local Board, not required for through traffic, to be of a width of not less than 32 feet, with a carriage way of not less than 21 feet, and connecting at both ends with a street not less than 40 feet wide.

### SCHEDULE "B"

*(Section 13)*

#### MATTERS WHICH MAY FORM THE SUBJECT OF PROVISIONS IN A TOWN PLANNING SCHEME

1. Streets, tramways, roads and other ways, including stopping up, altering or diverting of existing highways.
2. Buildings, structures and erections.
3. Open spaces, private and public.
4. Preservation of objects of historical interest or natural beauty.
5. Sewerage, drainage and sewage disposal.
6. Lighting.
7. Water supply.
8. Ancillary or consequential works.
9. Extinction of variation of private rights-of-way and other easements.
10. Use or disposal of land acquired by a Local Board.
11. Power of the Local Board to remove, alter or demolish any buildings or obstructive work.
12. Power of the Local Board to make agreements with owners, and of owners to make agreements with one another.
13. Power of the Local Board to accept any money or property for the furtherance of the objects of any town planning scheme, and provisions for regulating the administration of any such money or property.
14. Application with necessary modifications and adaptations of statutory enactments.



15. Carrying out and supplementing the provisions of this Act for enforcing schemes.

16. Limitation of time for operation of scheme.

17. Co-operation of the Local Board with the owners of land included in the scheme, or other person interested by means of conference and other means.

18. Charging against land the value of which is increased by the operation of a town-planning scheme the sum required to be paid in respect of that increase.

19. Any special circumstances or contingencies relating to the area included in the scheme.

### SCHEDULE "C"

(Section 15)

Procedure  
Preliminary  
to Prepara-  
tion or  
Adoption of  
Scheme.

1. *Procedure anterior to and for the purpose of an application for authority to prepare or adopt a town planning scheme.*

- (a) Deposit for inspection of maps and particulars of the proposed area by the Local Board.
- (b) Submission of maps, particulars and estimate of cost of preparing scheme to Department.
- (c) Publication of notices, including earliest possible notice of the proposal to prepare a scheme.
- (d) Hearing of objections and representations with regard to the boundaries or extent of the area by persons interested.

Procedure  
During, On  
and After  
Preparation  
and Adop-  
tion and  
Before  
Approval of  
Scheme.

2. *Procedure during on and after the preparation or adoption and before the approval of the scheme.*

- (a) Deposit for inspection of draft scheme and maps relating thereto.
- (b) Submission of the proposed scheme to Department, with plans and estimates.
- (c) Notice of submission of proposed scheme to Department.
- (d) Hearing of objections and representations by persons affected, including persons representing architectural or archaeological societies, or otherwise interested in the amenity of the area.

- (e) Publication of notice of intention to approve scheme and the lodging of objections thereto.

3. *Procedure in case of modification of proposed scheme.*

- (a) Notice to be given of proposed modifications.
- (b) Hearing of objections or representations to modifications, by persons interested.

Procedure  
After  
Approval of  
Scheme.

4. *Procedure after approval of the scheme.*

- (a) Notice to be given of the approval of the scheme;
- (b) Inquiries and reports as to beginning and the progress and completion of works and other action under the scheme.

Procedure re  
Application  
to Prepare  
or Adopt  
Town Plan-  
ning By-  
laws.

5. *Procedure for the purpose of an application to prepare or adopt town planning by-laws.*

- (a) Publication of notices of proposed application and deposit for inspection of draft by-laws and any maps relating thereto;
- (b) Submission of draft by-laws and any maps relating thereto to Department;
- (c) Hearing of objections and representations by persons interested;
- (d) Publication of notices of intention to approve by-laws and lodging of objections to any modifications made thereto.
- (e) Deposit of by-laws as approved by Department and publication of notice of approval.

Details to be  
Specified in  
Plans, etc.

6. *General Requirements.*

Duty of  
Local Board  
to Give  
Information.

Duty of  
Department  
re Public  
Enquiries.

- (a) The details to be specified in plans, including wherever the circumstances so require, the restrictions on the number, location, purpose and dimensions of buildings which may be erected on each area, and the height and character of such buildings.
- (b) Duty of the Local Board to give information to persons affected with reference to any by-laws or schemes or proposed by-laws or scheme.
- (c) Duty of Department to hold or order the holding of any public inquiry which it deems necessary or desirable.



## SCHEDULE "D"

(Section 22)

## REGULATIONS AS TO EXPROPRIATION OF LAND

Local Board  
may Pur-  
chase under  
Town Plan-  
ning Scheme

1. Where under a town planning scheme it is provided that land may be purchased for any purpose connected with the scheme, the Local Board may contract for the purchase of such land or an interest therein with the owner thereof.

2. If:—

- (a) No such contract can be made; or
- (b) Such owner or person does not reside within the province or is not known by the Local Board so to reside; or
- (c) A good title cannot be made to such land or interest, or the owner or any other person interested therein is incapable of executing a good conveyance thereof; or
- (d) For any other reason it is deemed advisable so to do;

the Local Board may by resolution determine to expropriate such land or interest.

Owner's  
Failure to  
Answer  
Offer  
Deemed  
Refusal to  
Contract

3. If any such owner, or other person having the power to sell, fails to answer, within thirty days after the receipt thereof, an offer in writing by the Local Board to purchase such land or interest, such failure may be deemed a refusal to contract.

Local  
Board's  
Surveyor to  
Submit Plan,  
Report, etc.

4. The surveyor of the Local Board shall prepare a plan and description of the land proposed to be expropriated and a report on the matter of such expropriation, and submit the same to the Board.

Local Board  
may Survey  
with View  
to Expro-  
piation.

5. For any purpose connected with such contemplated expropriation, any officer of the Local Board, his associates and servants may enter upon the land and survey or examine the same, and, if necessary in his judgment, may make borings or other excavations therein, and if such expropriation is not made, any damage to the land shall be paid for by the Local Board.

Plans, etc.,  
may be  
Inspected.

6. A copy of such plan and description as approved by the Local Board shall be lodged in the office of the surveyor, where the same may be inspected by any person interested.

Parties Interested to Receive Notice of Intention to Expropriate.

7. If the owner of the land or an interest therein intended to be expropriated resides within the province, and is known to the Local Board, the surveyor shall give him notice in writing of the intention of the Board to expropriate such land or interest, but the notices required to be given under the procedure regulations of the Department shall be deemed to be sufficient notice for the purposes of this Act.

No Notice to Mortgagees.

8. It shall not in any case be necessary to serve mortgagees of land sought to be expropriated with a copy of such notice.

Declaration of Expropriation and Payment into Court.

9. At the expiration of two weeks from the giving of such notice the Local Board may, by resolution, declare the land or interest therein to be expropriated, and shall pay into the Supreme Court such sum as in its judgment is a reasonable compensation therefor, and notice of the payment shall be given to such person and by such publication as is hereinbefore provided in respect to the notice of intention to expropriate.

Copy Resolution, Plan, etc., to be Registered in L. T. O.

10. A copy of such resolution, with a copy of the plan and description shall be lodged for registry in the land titles office for the land registration district in which the land is situated.

Vesting of Title in Local Board

11. Upon the passage of such resolution the making of such payment and the lodging for registry of such documents, the title to the land or interest therein declared to be expropriated shall be absolutely vested in the Local Board free from any encumbrance or lien of any description whatever.

Warrant may be Issued in Case of Resistance.

12. If resistance or opposition is made to the official of the Local Board entering upon and taking possession of land on behalf of the Board, a judge of the Supreme Court on proof of the passing of such resolution, the lodging of such plan in the office of the surveyor and in the land titles office, and the payment of the money into court, and after notice to show cause given in such manner as he directs, may issue his warrant to the sheriff of the judicial district within which such lands are situated, directing him to put down such resistance or opposition, and to put the Local Board in possession thereof; and the sheriff shall take with him sufficient assistance for the purpose, and shall put down such resistance and opposition, and shall put the Board in posses-



sion thereof; and shall forthwith make return to the Supreme Court of such warrant and of the manner in which he executed the same.

Arbitration  
Proceedings  
where  
Owner  
Objects to  
Compensa-  
tion Offered.

13. If the owner, within one month from the service upon him of such notice of payment, gives notice in writing to the Local Board that the amount of such compensation is insufficient and names a person as arbitrator, the Local Board shall forthwith name an arbitrator, and the two so named shall appoint a third, or, if they are unable to agree, such third arbitrator shall be appointed by the department, and the three arbitrators so appointed shall determine the amount of the compensation, and shall file their award with the surveyor and the provisions of The Arbitration Act shall apply to any proceedings had by the arbitrators.

Provided that no expert witness as to value, nor counsel shall be heard except by request of the arbitrators, or in such cases as the Department may direct.

Parties may  
Appoint  
Sole  
Arbitrator.

14. The owner and the Local Board may, if they see fit, appoint one person sole arbitrator, and the compensation may be determined by him.

Effect of  
Owner's fail-  
ure to Name  
Arbitrator.

15. If the owner does not give such notice and name an arbitrator within one month he shall be deemed to have accepted the amount of compensation paid into court as sufficient but in such case any person who is holder of a charge or incumbrance on the land expropriated, or is otherwise interested therein, may give such notice and name an arbitrator within one week from the expiry of the month, and the arbitrator shall proceed accordingly.

Arbitrator's  
Fees in Case  
of Non-  
professional  
Men.

16. An arbitrator, who is not by profession a barrister, solicitor, engineer, architect or Dominion or provincial land surveyor, shall not be entitled to take or demand for his attendance and services as an arbitrator any greater fees than the following:—

For every meeting where the reference is not proceeded with, but a postponement is made at the request of any party.....	\$ 2.00
For every day's sitting, where the reference is actually proceeded with, for each hour occupied, not less than.....	1.00
Nor more than.....	2.00

Arbitrator's  
Fees in Case  
of Profes-  
sional Men.

17. An arbitrator, who is by profession a barrister, solicitor, engineer, architect or Dominion or provincial land surveyor, shall not be entitled to take for his attendance and services as an arbitrator any greater fees than the following:—

For every meeting where the reference is not proceeded with, but a postponement is made at the request of any party..... \$ 5.00

For every meeting where the reference is actually proceeded with, for each hour occupied, not less than..... 2.00

Nor more than..... 5.00

Fractional  
Parts of an  
Hour in  
Computing  
Fees.

18. Where a meeting, at which the reference is actually proceeded with, is less than six hours in duration, fractional parts of an hour shall be excluded in computation of an arbitrator's fees. Otherwise a fractional part of an hour shall be counted as a full hour.

Parties may  
Fix Fees or  
Gross Sum  
by Agree-  
ment.

19. The parties to a submission may agree, by writing signed by them or by making such agreement a part of the submission, to pay to the arbitrator or to the arbitrators, if more than one, such fees for each day's attendance, or such gross sum for taking upon themselves the burden of the reference and making the award, as the parties see fit, and in every such case the fees or sum so agreed upon shall be substituted for those above mentioned, and shall be taxed by the taxing officer accordingly.

Witness  
Fees.

20. No greater fees shall be taxed to a person called as a witness before an arbitrator than could be taxed to him in an action in the Supreme Court.

Taxation of  
Costs.

21. Any party to an arbitration shall be entitled to have the costs thereof, including the fees of the arbitrators, or such fees alone, taxed by the proper officer of the Supreme Court, in the judicial district in which the land lies, upon an appointment which may be given by the officer for that purpose, on the filing of an affidavit setting forth the facts.

(2.) A taxation of the fees of the arbitrators may be had upon an appointment given at the instance of the arbitrators or any of them upon a like affidavit.

Powers of  
Taxing  
Officer.

22. The taxing officer shall in no case tax higher fees than those mentioned in sections 16 and 17, but, upon reasonable grounds, he may reduce the maximum mentioned therein, having regard to the length of the arbitration, the value



of the matter in dispute, and the difficulty of the questions to be decided.

(2.) Such officer shall not reduce the fees below the minimum mentioned in sections 16 and 17, nor shall he tax more than one counsel fee to either party for any meeting of the arbitrators.

(3.) The taxing officer may tax a reasonable sum for preparing the award.

Appeal from  
Taxation.

(4.) An appeal may be had from such taxation in the same manner as from a taxing officer's certificate of taxation in an action.

Local Board  
may adver-  
tise Meeting  
where  
Several  
Owners in  
Expropria-  
tion Pro-  
ceedings.

23. In the event of the Local Board proceeding to expropriate a tract of land, the property of more than one person, the Board may give notice by advertisement for two weeks, in one or more daily newspapers published in the locality, of a time and place at which the owners of land proposed to be taken may meet, and may also give notice of such meeting by letter prepaid to such of the owners as are known; but the want of notice by letter shall not affect the expropriation proceeding. Such meeting shall be presided over by the mayor, warden, or other person appointed by the Board.

Owners may  
Nominate  
One  
Arbitrator.

24. At such meeting the owners may, by a majority vote of those present, nominate a person to be one of the arbitrators to determine the compensation to be paid by the Board for the respective lands so taken.

Failing  
Owners  
Judge of  
Supreme  
Court may  
Appoint.

25. If such owners fail to meet or to appoint a person at such meeting, a judge of the Supreme Court may, on the application of the Board, appoint a person to be such arbitrator.

Board to  
Appoint One  
Arbitrator.

26. The Board shall appoint one person to be an arbitrator for such purpose.

Arbitrators  
whom  
Failing  
Judge, may  
Appoint  
Third  
Arbitrator.

27. The two persons so appointed shall appoint a person to be a third arbitrator, and if they are unable or fail within one week of their appointment to agree upon any such person a judge may, on the application of the Board or of any owner, appoint a person to be such third arbitrator.

Arbitrators  
to Fix Com-  
pensation.

28. The three persons so appointed shall be the arbitrators to determine the compensation to be paid in respect to each of the properties expropriated.

Procedure  
where  
Award Ex-  
ceeds  
Amount  
Paid into  
Court or  
Otherwise.

29. If the amount of compensation determined by the arbitrators exceeds the amount paid into court, the Local Board shall pay the amount of the excess into court. If such amount is less than the amount paid into court, the difference may be paid out to the Board on application.

Money Paid  
into Court  
to be Sub-  
ject to  
Charges on  
Land Ex-  
propriated.

30. Money paid into court on account of an expropriation shall be subject to every lien, incumbrance or other charge to which the land or interest therein expropriated was subject.

Payment of  
Money out  
of Court.

31. Money paid into court may be paid out to the persons entitled thereto on application to a judge of the court, notice of such application being first given to the Local Board, and on such application the judge shall make such orders and direct such notices to be given as he deems necessary to protect all persons interested in the money so paid in.

Registrar to  
Furnish  
Necessary  
Certificate.

32. If upon any application for the payment out of money a certificate of title is required, the registrar of titles for the land registration district in which the land lies, shall furnish the same for a fee of —— dollars, to be paid by the Local Board.

Cost of  
Application  
Payable by  
Board.

33. The Board shall pay the cost of any such application not exceeding fifteen dollars in all.





